

United States Government

Department of Energy

memorandum

DATE: JUL 24 1995

REPLY TO
ATTN OF: EH-52:J. Rabovsky:3-2135


SUBJECT: WESTINGHOUSE HANFORD COMPANY (WHC) REQUEST FOR EXEMPTION OF DEPARTMENT OF ENERGY (DOE) NUCLEAR SAFETY RULES

TO: John D. Wagoner, Richland Operations Office

This responds to your memorandum dated January 30, 1995, requesting that DOE disapprove the exemption request (WHC-10CFR835-EX-94-001) submitted by the WHC from the provisions contained in Title 10, Code of Federal Regulations, Part 835 (10 CFR 835) "Occupational Radiation Protection."

Based on our review of the materials that you provided to us, we have determined that WHC has not requested an exemption from 10 CFR 835.404(b) but has instead requested that DOE determine if their approach to implementation of this provision appears to meet the intended purpose of the provision. The Office of Worker Health and Safety (EH-5) recommends that your office examine WHC's contamination control program and, if supported by this examination, provide WHC with an opinion that its proposed contamination control program is sufficient to comply with the requirements of 10 CFR 835.404(b). We suggest that WHC amend their Radiation Protection Program to reflect their proposed contamination control program. The amendment would, in turn, need to be approved by DOE.

The Office of Environmental Management and the General Counsel staff concur with this response.


Joseph E. Fitzgerald, Jr.
Deputy Assistant Secretary
Worker Health and Safety

Attachment

cc w/attachment:
Keith Christopher, EH-3
Docketing Clerk, EH-3
Radiological Control
Coordinating Committee



COMPLIANCE WITH TITLE 10 CODE OF FEDERAL REGULATIONS PART 835.404(b)

Background

On January 30, 1995, the Richland Operations Office (RL) forwarded a request to this office, the Office of Worker Protection Programs and Hazards Management (EH-52), from the Westinghouse Hanford Company (WHC) for exemption from the provisions of title 10, Code Of Federal Regulations, part 835.404(b) (10 CFR 835.404(b)). This exemption request had been submitted to RL on December 29, 1994 (WHC exemption request number: WHC-10CFR835-EX-94-001). WHC requested an exemption from 10 CFR 835.404(b) because it felt that the requirement, as written, would be "impossible to implement as it mandates zero tolerance for inadvertent contamination transfers." WHC suggested rewording of the requirement, which it felt would modify the requirement to allow consideration of an "as low as reasonably achievable" approach towards compliance. In addition, WHC provided supplementary information on the approach they would adopt to control inadvertent contamination transfers.

In forwarding this request, RL recommended denial of the exemption request because it determined that the WHC contamination control programs are sufficient to assure compliance with the regulatory requirement contained in 10 CFR 835.404(b).

EH-52 Staff Position

EH-52 concurs with the determination that an exemption is not needed. However, rather than denying the request, we recommend returning the request with an explanation that an exemption is not needed because 10 CFR 835.404(b) does not mandate zero tolerance but rather permits appropriate controls that balance the relevant factors. We also recommend RL's examining WHC's contamination control program and, if supported by this examination, providing WHC with an opinion that its proposed contamination control program is sufficient to comply with the requirements of 10 CFR 835.404(b). If WHC desires a more formal approval of its contamination control program, it can amend its Radiation Protection Plan for 10 CFR 835 to set forth the program and request the Department of Energy (DOE) to approve the amendment.

In making its recommendation, EH-52 has relied upon the regulatory language contained in Part 835. 10 CFR 835.404(b) states: "Appropriate controls shall be maintained and verified which prevent the inadvertent transfer of removable contamination to locations outside of radiological areas under normal operating conditions." 10 CFR 835.404(c) states that areas having contamination in excess of the levels cited in appendix D of 10 CFR 835 must be "controlled in a manner commensurate with the physical and chemical characteristics of the contaminant, the radionuclides present, and the fixed and removable contamination levels." In our opinion, the provisions in (c) modify those contained in (b). Read together, these provisions do not require absolute containment.

The DOE Radiological Control Manual and other Departmental publications, including good practice manuals for work with uranium, plutonium, and tritium, discuss appropriate controls to prevent the spread of contamination. These DOE guidance documents, while not mandatory, provide assistance in determining how to comply with DOE regulatory requirements. DOE guidance is not written in terms of absolute containment, but focuses on what is reasonable in a particular situation. An acceptable contamination control program can vary from the basic (establishment of appropriate boundary identifiers and postings) to the most complex (such as a program including descriptive and extensive administrative and engineering controls), depending on the circumstances of a particular situation.